

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

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for April 28, 2004 PLANNING COMMISSION MEETING

**P.A.S.:** Change of Zone #04027

**PROPOSAL:** Change from R-2 Residential to O-2 Suburban Office.

**LOCATION:** South 47<sup>th</sup> Street and Pioneers Boulevard.

**LAND AREA:** 32,274 square feet, or 0.74 acres, more or less.

**CONCLUSION:** This piece of property has long been treated as a buffer for the residences to the west from commercial activity along South 48<sup>th</sup> Street. New commercial development should respect its proximity to existing residences. The O-2 zoning district does not provide adequate protections for the neighbors. However, should a change be approved, a change to the R-T district would be more appropriate.

|  |        |
|--|--------|
| <b><u>RECOMMENDATION:</u></b>  | Denial |
| However, Planning Staff would recommend approval to an application requesting R-T Residential Transition zoning. |        |

### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** The west 132 feet of Lot 1, Block 1, Pound Heights, located in the NW 1/4 of Section 8 T9N R7E, Lancaster County, Nebraska.

**EXISTING ZONING:** R-2 Residential

**EXISTING LAND USE:** Parking lot allowed by special permit.

### **SURROUNDING LAND USE AND ZONING:**

|        |                         |                    |
|--------|-------------------------|--------------------|
| North: | Commercial              | B-1 Local Business |
| South: | Single-family dwellings | R-2 Residential    |
| East:  | Commercial              | B-1 Local Business |
| West:  | Single-family dwellings | R-2 Residential    |

### **HISTORY:**

Sep 1982 Special Permit #223A approved additional parking on this part of the lot. The permit approved reducing the building line district along Pioneers Boulevard from 50 feet to 43 feet. The front yard along Pioneers Boulevard was reduced from 8 feet to 7 feet. This permit also required eliminating one of the two

existing driveways off of South 47<sup>th</sup> Street. However, the applicant did not sign and return a Letter of Acceptance, therefore, this special permit is void.

May 1979      The zoning update changed the zoning on this part of Lot 1 from A-2 Single Family Dwelling to R-2 Residential. The remaining portion of this lot changed from G Local Business to B-1 Local Business.

Fall 1962      Special Permit #223 approved a parking lot at this location. The permit prohibited parking in the front yard and required parking lot screening.

### **COMPREHENSIVE PLAN SPECIFICATIONS:**

The Land Use Plan identifies this portion of the lot as Urban Residential, and the remaining portion of the lot as Commercial. (F 25)

**Urban Residential:** Multi-family and single-family residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. (F 27)

**Commercial:** Areas of retail, office, and service uses. Commercial uses may vary widely in their intensity of use and impact, varying from low intensity offices, to warehouses, to more intensive uses such as gas stations, restaurants, grocery stores or automobile repair. Each area designated as commercial in the land use plan may not be appropriate for every commercial zoning district. The appropriateness of a commercial district for a particular piece of property will depend on a review of all the elements of the Comprehensive Plan. (F 22)

Preservation and renewal of historic buildings, districts, and landscapes is encouraged. Development and redevelopment should respect historical patterns, precedents, and boundaries in towns, cities, and existing neighborhoods. (F 17)

Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood. (F 18)

#### ***Guiding Principles for Existing Commercial Centers:*** (F 49)

Encourage renovation and reuse of existing commercial centers. Infill commercial development should be compatible with the character of the area and pedestrian oriented. (F 49)

Expansion of existing commercial and industrial uses should not encroach on existing neighborhoods and must be screened from residential areas.

#### ***Guiding Principles for Existing Neighborhoods:*** (F 69)

Encourage a mix of compatible land uses in neighborhoods, but similar uses on the same block face. Similar housing types face each other: single family faces single family, change to different use at rear of lot. Commercial parking lots should not intrude into residential areas where residential uses predominate a block face. More intense commercial uses (gas stations, big box stores, car wash, fast food, etc.) may not be compatible due to impact on nearby housing. Expansion in existing centers should not encroach or expand to encroach, on existing neighborhoods, and commercial areas must be screened from residential areas.

Encourage pedestrian orientation with parking at rear of residential and neighborhood commercial uses.

Require new development to be compatible with [the] character of neighborhood and adjacent uses (i.e., parking at rear, similar setback, height and land use.)

**Strategies for New and Existing Urban Neighborhoods:** (F 71)

The diversity of land uses, including commercial and congregate living facilities are important to the diversity of any area, provided they fit within the character of the block and neighborhood.

**TRAFFIC ANALYSIS:** The Comprehensive Plan identifies South 48<sup>th</sup> Street and Pioneers Boulevard as Minor Arterials, while South 47<sup>th</sup> Street is a Local Street, both now and in the future. (E 49, F 103) This lot has two driveways onto South 47<sup>th</sup> Street, one onto Pioneers Boulevard, and one onto South 48<sup>th</sup> Street.

**Minor Arterials:** This functional class serves trips of moderate length and offers a lower level of mobility than principal arterials. This class interconnects with, and augments principal arterials, distributes traffic to smaller areas, and contains streets that place some emphasis on land access. These are characterized by moderate to heavy traffic volumes. (F 103)

**Local Streets:** These are composed of all lower order facilities that essentially serve as a conduit between abutting properties and higher order streets. Local streets provide the lowest level of mobility and generally exhibit the lowest traffic volumes. (F 105)

**AESTHETIC CONSIDERATIONS:** Since before the 1979 zoning update, this portion of this lot has been zoned residential, acting as a buffer to the commercial zoning along 48<sup>th</sup> Street. While the current use of the property as a parking lot is not as aesthetically pleasing as a residential use, it is allowed within this zoning district by special permit. Changing this to any commercial district other than R-T Residential Transition would foreclose any possibility of this block face providing a buffer to the neighborhood.

**ALTERNATIVE USES:** Currently, this property is part of a larger lot. If it were split off, under current zoning it could be used for residential dwellings, or any use permitted in the R-2 zoning district. If a change of zone is appropriate, this property could be changed to R-T in order to preserve some design characteristics sensitive to the residential character of South 47<sup>th</sup> Street.

**ANALYSIS:**

1. This is a request to change the zoning on a portion of a large corner lot from R-2 Residential to O-2 Suburban Office. This lot already has a large commercial building oriented towards South 48<sup>th</sup> Street and Pioneers Boulevard. The portion to be changed is currently used as a parking lot under a special permit.
2. This portion of Lot 1 is important to the neighborhood because it sits between existing single-family dwellings and commercial development oriented to South 48<sup>th</sup> Street. The existing large commercial building located on this lot suggests the potential for higher intensity development than currently exists on the site. The current B-1 zoning

for the building allows restaurants, retail stores, and garden centers as permitted uses, for example.

3. The O-2 zoning district does not require particular guidelines designed to maintain the character of the surrounding neighborhood. In contrast, the R-T zoning district does, such as requiring pitched roofs, nonreflective siding and roofing, and prohibits air conditioners located on the roof. In addition, the R-T district requires a use permit, providing the City with an opportunity to review the site plan.
4. The O-2 and R-T zoning districts are compared in the table below.

|                             | O-2  | R-T   |
|-----------------------------|--|---|
| Permitted Uses              | Offices; Parks; Libraries; Schools; Churches; Nonprofit Institutions; Banks; Barber and Beauty Shops; Tailor, Shoe Repair, Upholstery, and Printing Shops, and other similar uses. | Generally the same as O-2 plus Single- and Two-Family Dwellings; Pharmacies; Medical Supply Shops; Clubs; Photography Studios, and Electrical Repair Shops. <b>(Drive-up, drive-thru, and ATM facilities not allowed)</b> |
| Conditional Uses            | Dwellings; Photography Studios, Parking Lots; Early Childhood Care Facilities.   | Group Homes; Domestic Shelters; Early Childhood Care Facilities.  |
| Special Uses                | Broadcast Towers; Wind Energy Conversion Systems, and Public Utilities; Outdoor Seasonal Sales; Parking Lots; Early Childhood Care Facilities; Private Schools.                    | Broadcast Towers; Medical Testing Laboratories; Public Utilities; Private Schools; Early Childhood Care Facilities.   |
| Required lot area           | 0 square feet  | 4,000 square feet   |
| Required frontage           | 50 feet  | 50 feet   |
| Front Yard                  | 30 feet or same as an abutting R district  | 10 feet or same as an abutting R district   |
| Side Yard                   | Less than 15,000 sq. ft. lot area = 10 feet<br>15,000 sq. ft. lot area or more = 20 feet<br>(if abuts commercial or industrial = 0 feet)   | 10 feet<br>(if abuts commercial or industrial = 0 feet)   |
| Rear Yard                   | 40 feet  | 10 feet<br>(if abuts commercial or industrial = 0 feet)   |
| Height                      | 25 feet  | 28 feet   |
| Screening                   | Side and Rear Yards abutting an R district   | Side and Rear Yards abutting an R district  |
| Use Permit                  | No   | Yes   |
| Design Feature Requirements | No   | Yes (as noted in Analysis)  |
| Parking                     | Not allowed in Front or Side yards; 1 stall per dwelling; 1 stall per 300 sq. ft.  | Not allowed in Front or Side yards; 1 stall per dwelling; 1 stall per 225 sq. ft.   |

|       |   |   |
|-------|---|---|
| Signs | For each main building - 2 on-premises wall or projecting signs not to exceed 25 sq. ft. each, OR 1 not to exceed 25 sq. ft. plus 1 ground sign not to exceed 32 sq. ft. and 8 ft. tall. In addition, 1 ground sign at building entrance not to exceed 15 sq. ft. Must be located at least 50 feet from an abutting R district. | For each building - 1 wall sign not located on a side abutting an R district or a local or collector street if located across from an R district. One ground sign per development center, located at the entrance, and separated from an abutting R district by the entrance driveway. No sign can exceed 20 sq. ft., or be located in a Yard. Ground sign cannot exceed 8 feet in height. All signs must maintain the character of the area. |
|-------|---|---|

5. Applicant's proposed use is an office building or bank, both of which are allowed in either O-2 or R-T. While the R-T district is more restrictive for parking and signs, it is more generous with setbacks. The R-T district also requires a level of review intended to insure the neighboring residential uses are impacted as little as possible.
6. One reason the Applicant requested O-2 as opposed to R-T is because a drive-thru, drive-up, and automated teller facilities are not allowed in R-T, but are allowed in O-2. However, this is speculative as the Applicant is also considering an office use, which may not require these facilities. This points out the fact any permitted use in O-2 could locate here if their request is approved. Planning Staff suggests the benefits for the neighborhood provided by an R-T designation outweigh the need to be able to have a drive-thru or drive-up service, or automated teller machine.
7. The R-T zoning district is intended to balance compatible commercial uses with the residential character of a neighborhood. One aspect of the balance requires certain design features reflecting residential scale. Another aspect recognizes the incompatibility of certain accessory uses by prohibiting drive-up and drive-thru windows, and ATM machines due to concerns over 24-hour operation and lighting.
8. The Comprehensive Plan is clear on the point of commercial development intruding into residential areas. Such intrusions are discouraged. However, the likelihood this R-2 property will ever develop with residential uses is probably minimal. Therefore, changing the zoning to support commercial development should be sensitive to the character of the neighboring residences.
9. Planning Staff agrees this property could support commercial development sensitive to the area. Planning Staff would support an application to change the zoning designation to R-T.

Prepared by:

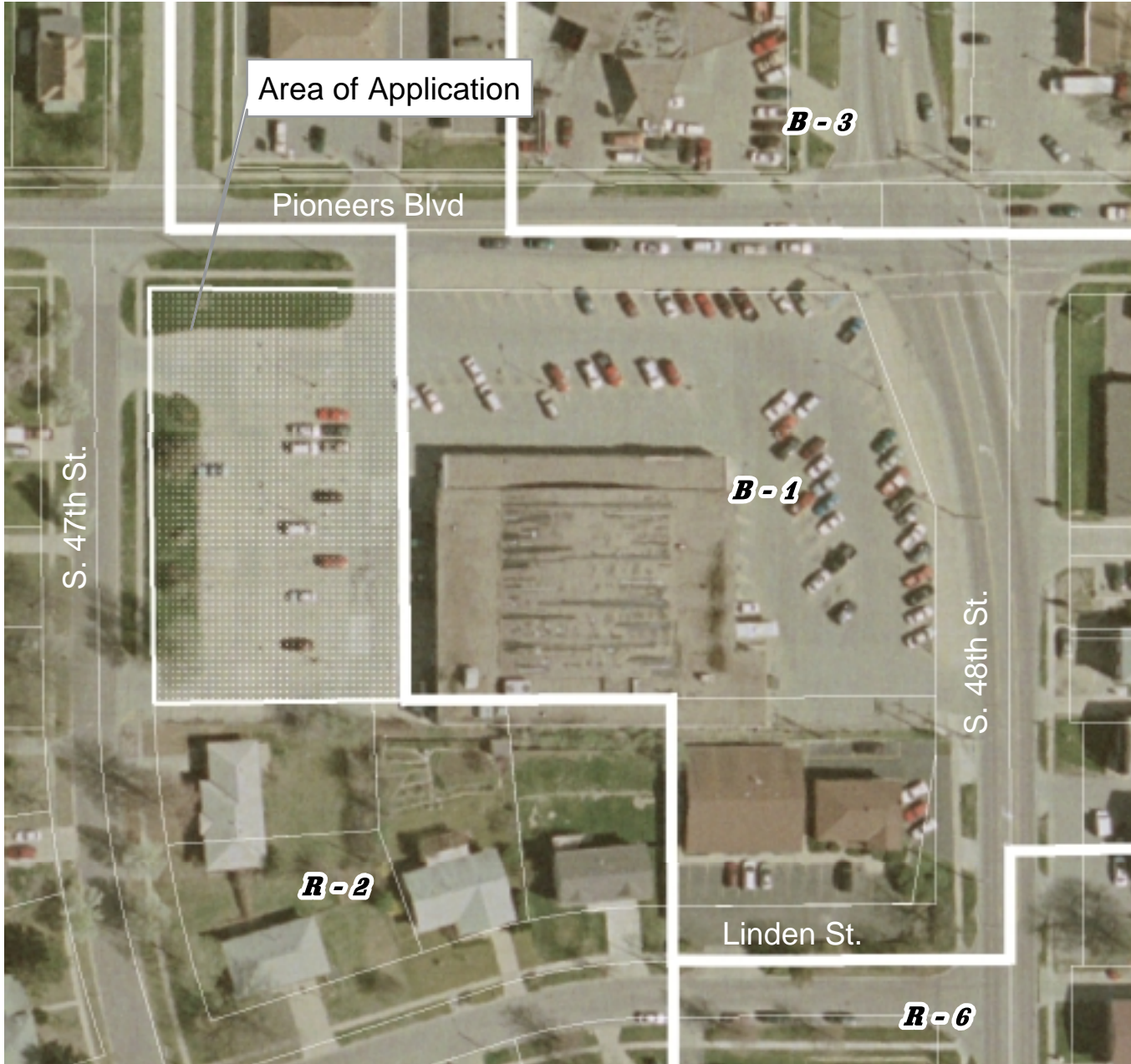
Greg Czaplewski, 441.7620, gczaplewski@ci.lincoln.ne.us  
Planner

**Date:** April 15, 2004

**Applicant:** Blackhawk Investments, L.L.C.  
Allen Laduke  
817 "R" Street  
Lincoln, NE 68508  
435.5223

**OWNER:** Maxren Corporation  
Lee Boatright  
PO Box 396  
Potter Valley, CA 95469  
707.743.2448

**CONTACT:** Same as Applicant.



2002 aerial

## Change of Zone #04027 S. 48th & Pioneers Blvd

### Zoning:

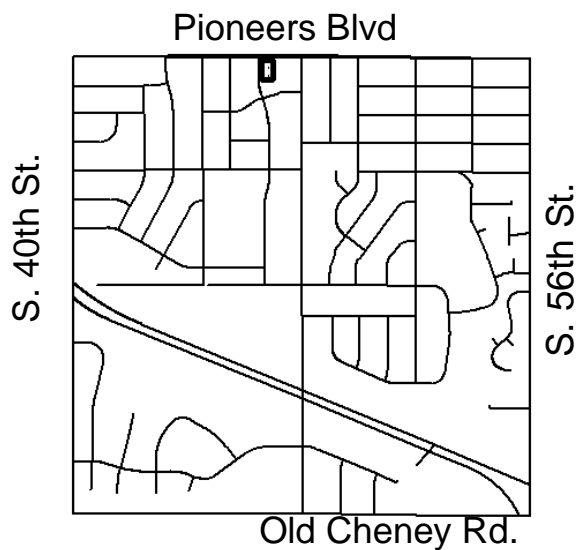
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|------------|--|
| R-1 to R-8 | Residential District                   |
| AG         | Agricultural District                  |
| AGR        | Agricultural Residential District      |
| R-C        | Residential Conservation District      |
| O-1        | Office District                        |
| O-2        | Suburban Office District               |
| O-3        | Office Park District                   |
| R-T        | Residential Transition District        |
| B-1        | Local Business District                |
| B-2        | Planned Neighborhood Business District |
| B-3        | Commercial District                    |
| B-4        | Lincoln Center Business District       |
| B-5        | Planned Regional Business District     |
| H-1        | Interstate Commercial District         |
| H-2        | Highway Business District              |
| H-3        | Highway Commercial District            |
| H-4        | General Commercial District            |
| I-1        | Industrial District                    |
| I-2        | Industrial Park District               |
| I-3        | Employment Center District             |
| P          | Public Use District                    |

One Square Mile  
Sec. 8 T9N R7E



Zoning Jurisdiction Lines

City Limit Jurisdiction



**Pierson|Fitchett**  
LAW FIRM

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April 1, 2004

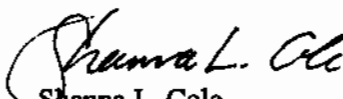
Marvin Krout  
Director of Planning  
Lincoln-Lancaster County Planning Dept.  
555 South 10<sup>th</sup> Street, Suite 213  
Lincoln, Nebraska 68508

Re: *Black Hawk Investments*  
*Application for Change of Zone*

Dear Mr. Krout:

We are requesting a change of zone from R-2 to O-2 for the property located at 4747  
Pioneers Blvd., Lincoln, Nebraska, for the purpose of constructing an office building or bank on the  
property.

Sincerely,

  
Shanna L. Cole  
For the Firm  
[scole@pierson-law.com](mailto:scole@pierson-law.com)

SLC:lh

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